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13 | *Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

17 VALERIE D. WATSON-SMITH, AND ALL  
18 OTHERS SIMILARLY SITUATED,

15 Plaintiff.

VS.

20 SPHERION PACIFIC WORKFORCE, LLC, and  
21 DOES 1 through 100, inclusive.

22 | Defendants

) No. C07-05774  
)  
) **SUPPLEMENTAL DECLARATION OF**  
) **DANIEL H. QUALLS IN SUPPORT OF**  
) **PLAINTIFF VALERIE WATSON-**  
) **SMITH'S;**  
)  
) **1) MOTION TO COMPEL**  
) **RESPONSES TO PLAINTIFF'S**  
) **INTERROGATORIES AND**  
) **INSPECTION DEMANDS; AND**  
)  
) **2) PLAINTIFF'S MOTION FOR**  
) **SANCTIONS**  
)  
) **Date: September 24, 2008**  
) **Time: 3:00 p.m.**  
) **Courtroom: 4, 3<sup>rd</sup> floor**  
) **Judge: Honorable Wayne D. Brazil**

1 I, Daniel H. Qualls, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all the courts of the State of  
 3 California, and am a Partner with the law firm of Qualls & Workman, L.L.P., attorneys of record  
 4 herein for Plaintiff Valerie Watson-Smith. The following is based on my personal knowledge, and  
 5 if called upon to do so, I could and would competently testify thereto.

6 2. On March 19, 2008, the parties submitted a joint letter brief to the Court regarding  
 7 Plaintiff's motion to compel compliance with the notice for the 30(b)(6) Examinations. In  
 8 opposition to Plaintiff's request, Spherion stated:

9  
 10 Because Spherion is primarily a temporary staffing company that places employees with  
 11 thousands of outside companies in thousands of different job capacities in California, these  
 categories are excessively overbroad and not subject to common FRCP30(b)(6) testimony.

12 Spherion also asserted that because it operated over 60 offices in California placing employees  
 13 with over 9,000 various business performing various jobs, Plaintiff could not establish a prima  
 14 facie showing of Rule 23 class requirements required to engage in 'state-wide' class discovery on  
 15 meal period policies and practices.

16 3. Attached hereto as Exhibit A is a true and correct copy of the Court's April 2, 2008  
 17 Order directing Spherion to comply with Plaintiff's 'state-wide' discovery requests and produce  
 18 requested 30(b)(6) Examination witnesses.

19 4. Attached hereto as Exhibit B are true and correct copies of excerpts from the  
 20 deposition testimony of Joan Orzo taken on May 30, 2008.

21 5. Attached hereto as Exhibit C is a true and correct copy of an exemplar of Plaintiff's  
 22 Spherion timesheet produced by Spherion in response to Plaintiff's discovery requests.

23 6. Bates records cited by attorney Sanderson as evidence of Spherion's production of  
 24 class member timesheet exemplars consist of Plaintiff's timesheets only (with the exception of  
 25 D00025).

26 7. As confirmed to Spherion in the meet and confer process preceding this motion,  
 27 Plaintiff seeks by this motion only the name, addresses (home and email) and telephone numbers  
 28 of putative class members.

1       8.     In the meet and confer process that preceded this motion, Plaintiff offered to limit  
2 the scope of Request No. 7 and Interrogatory No. 4 to only those hourly employees who filed  
3 complaints with California governmental agencies or whom submitted written complaints to  
4 Spherion's HR department personnel responsible for such complaints. Spherion rejected  
5 Plaintiff's proposal.

6           9.        In the meet and confer conference the preceded this motion, Plaintiff proposed to  
7 limit to scope of Request No. 13 to exemplars of standardized service contracts used by Spherion  
8 in California during the proposed class period. Spherion rejected this proposal.

9 I declare under penalty of perjury that the foregoing is true and correct and that this  
10 Declaration was executed September 10, 2008, in San Francisco, California.

/S/  
DANIEL H. QUALLS

## **EXHIBIT A.**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

6

7

8 VALERIE WATSON-SMITH and No. C 07-5774 JSW (WDB)  
9 all others similarly situated,

10

Plaintiffs,

11

12

v.  
SPHERION ATLANTIC  
ENTERPRISES,

13

Defendant.

14

---

/ ORDER FOLLOWING APRIL 1,  
2008, TELEPHONIC HEARING  
REGARDING DEPOSITIONS  
NOTICED BY PLAINTIFF UNDER  
FEDERAL RULE OF CIVIL  
PROCEDURE 30(b)(6)

15

16

17 On April 1, 2008, the Court heard oral argument in connection with a letter  
18 brief filed jointly by counsel for Plaintiff and Defendant about depositions noticed by  
19 Plaintiff under Federal Rule of Civil Procedure ("FRCP") 30(b)(6). Having considered  
20 the jointly filed letter brief and the arguments of the parties, the Court ruled from the  
21 bench and Ordered that Defendant must produce a witness or witnesses who are  
22 competent to testify about the following:

23

24

25

(1) Spherion's policies and practices for granting meal breaks, or compensating  
for missed meal breaks, for its hourly, non-exempt employees in California from  
September 2003 through the present;

26

27

28

4 (3) Spherion's policies and practices for reimbursement for travel expenses  
5 incurred by California employees for travel required by their employment from  
6 September 2003 through the present;

7 (4) Whether, and under what circumstances, employers to whom Spherion  
8 sends employees are required or expected to follow Spherion's policies and practices  
9 for hourly, non-exempt California employees about:

10 (a) granting meal breaks or compensating for missed meals, and  
11 (b) record keeping about meal breaks and compensation for missed meals;

12 (5) Whether, and under what circumstances, employers to whom Spherion  
13 sends employees are required or expected to follow Spherion's policies and practices  
14 for employees about reimbursement for travel expenses incurred by California  
15 employees for travel required by their employment.

16 (6) If some of the employers to whom Spherion sends employees are required  
17 or expected to follow Spherion's policies and practices with regard to these matters  
18 and some are not, the Rule 30(b)(6) witness(es) that Spherion produces must disclose:

19. (a) the number of employers in each of these two categories since  
20. September of 2003 (i.e., the number who have been required or expected to follow  
21. Spherion's policies in these areas and the number who have not), and

22 (b) the approximate number of employees Spherion has sent to the  
23 employers in each category since September of 2003.

24 | IT IS SO ORDERED

25 Dated: April 2, 2008

WAYNE D. BRAZIL  
United States Magistrate Judge

## **EXHIBIT B.**

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3

4

5 VALERIE D. WATSON-SMITH, AND ALL )  
6 OTHERS SIMILARLY SITUATED, )

7 Plaintiff, )

8 v. ) No. C07-05774

9 SPHERION PACIFIC WORKFORCE, LLC, )  
10 and DOES 1 through 100, )  
inclusive, )

11 Defendants. )

12 \_\_\_\_\_)

13

14

15 Deposition of JOAN L. ORZO, taken  
16 on behalf of the Plaintiff, at  
17 244 California Street, Suite 410,  
18 San Francisco, California, commencing  
19 at 9:03 a.m., Friday, May 30, 2008,  
20 before Karen Moon, Certified Shorthand  
21 Reporter No. 12450.

22

23

24

25

1 A Some.

2 Q What percentage of staffing services employees  
3 work on customer sites?

4 A Majority.

5 Q More than 75 percent?

6 A Probably.

7 Q More than 85 percent?

8 A I would guess.

9 Q Would that be your best estimate?

10 A Yes.

11 Q Are Spherion supervising personnel physically  
12 present on-site when Spherion staffing personnel work on  
13 customer sites?

14 A Sometimes.

15 Q How frequently?

16 A Depends on contractual terms. Volume of  
17 people assigned.

18 Q I'm sorry. Say again?

19 A It depends on contractual terms and the number  
20 of people that are assigned. There's a lot of variables  
21 that play into whether or not there's on-site presence.

22 Q Some Spherion employees work on-site without  
23 the presence of Spherion supervisors; correct?

24 A Correct.

25 Q What percentage?

1 (The deposition officer read back the answer  
2 as follows:

3 "ANSWER: Yes.")

4 BY MR. QUALLS

5 Q More than 2,000?

6 MR. SANDERSON: Objection. Asked and  
7 answered.

8 THE WITNESS: I would say yes.

9 BY MR. QUALLS

0 Q More than 3,000?

1 A Probably.

2 Q More than 4,000?

A I don't have the answer to that question.

4 Q Now with respect to temporary personnel, is it  
5 your testimony that client or client personnel schedule  
6 their meal periods?

7 A They provide work schedules to Spherion, and  
8 if meals are not included in that work schedule, we  
9 would ask the client to include them for our personnel.

Q My question is more specific than that.

21 A Uh-huh.

22 Q Does client or client personnel schedule meal  
23 periods for temporary personnel?

24 A No.

Q Who schedules the meal periods?

1           A     Spherion adopts the work schedules to the  
2     client we work for. If in fact meal periods are not  
3     outlined in that work schedule, we would request that  
4     one be included for our people.

5           Q     And who is responsible for -- withdraw the  
6     question.

7               Is it the case that temporary -- withdraw the  
8     question.

9               Is it the case that client or client personnel  
10    provide Spherion branch personnel with schedules for  
11    flexible staff?

12          A     Clients contact us with the work schedules  
13    they need covered. I think that's the answer to your  
14    question.

15          Q     Is that before the temporary personnel is  
16    placed at their site?

17          A     Yes.

18          Q     So, for example, a client would contact the  
19    branch personnel and say I need a full-time  
20    receptionist?

21          A     Uh-huh.

22          Q     Is that correct?

23          A     Correct. And they would typically say it's  
24    Monday through Friday from 8:00 to 5:00 or whatever  
25    hours they would need covered.

1 Q Do they provide any other scheduling  
2 information in that step of the process to Spherion?

3 A I don't have firsthand knowledge of any of the  
4 order received information.

5 Q Does -- are branch personnel instructed that  
6 they are to ensure that schedules provided by clients  
7 for temporary personnel that have yet to begin working  
8 at a client site specifically include a meal period  
9 break?

10 MR. SANDERSON: Objection. Vague.

11 THE WITNESS: I don't have knowledge of that.

12 BY MR. QUALLS

13 Q Have you ever instructed branch personnel to  
14 do so?

15 A I have not. Personally.

16 Q To your knowledge, has anyone ever instructed  
17 branch personnel to do so?

18 A Not to my knowledge.

19 Q Do clients provide written schedules to branch  
20 personnel for flexible staff before flexible staff  
21 arrive at a client site?

22 A I don't know.

23 Q Are clients required, to your knowledge, to  
24 provide branch personnel with written schedules for  
25 temporary personnel before temporary personnel work on a

1 by any client of Spherion to schedule a meal period for  
2 a temporary personnel?

3 MR. SANDERSON: Objection. Vague and  
4 ambiguous.

5 THE WITNESS: I don't have that knowledge.

6 BY MR. QUALLS

7 Q Are clients obligated to schedule meal periods  
8 for temporary personnel?

9 A No.

10 Q Does -- withdraw the question.

11 Are clients obligated to provide rest periods  
12 for temporary personnel?

13 MR. SANDERSON: Objection. It's beyond the  
14 scope.

15 You don't have to answer that.

16 MR. QUALLS: Are you instructing her not to  
17 answer?

18 MR. SANDERSON: Yes.

19 MR. QUALLS: All right.

20 MR. SANDERSON: She's been produced on meal  
21 periods, not rest periods.

22 MR. QUALLS: All right.

23 MR. SANDERSON: I'd like a break when you get  
24 a chance, too.

25 MR. QUALLS: Excuse me?

1 occurred; correct?

2 A Correct.

3 Q You also mentioned site visits?

4 A Uh-huh.

5 Q How frequently are site visits made?

6 A It varies, again by client, what type of work  
7 is being done, how many people we have there, how long  
8 the assignments are for.

9 Q Is there a requirement that site visits take  
10 place at certain minimum intervals?

11 A Not to my knowledge.

12 Q Are there any documents that inform --  
13 withdraw the question.

14 Who performs site visits?

15 A Branch personnel.

16 Q Does the service intelligence training  
17 documentation inform branch personnel of the work they  
18 are to perform on-site visits?

19 A I'm not sure.

20 Q Are you aware of any documents that inform and  
21 instruct branch personnel as to the work they are to  
22 perform on-site visits?

23 THE WITNESS: Repeat the question for me,  
24 please.

25 (The deposition officer read back the question

1 Our people are assigned tasks, but they're not  
2 necessarily tasks that can be designated at specific  
3 times during the day.

4 BY MR. QUALLS

5 Q Who assigns the tasks?

6 A If there's no on-site presence -- which is  
7 what we're talking about; right?

8 Q Yes.

9 A Then the client would direct our people to  
10 perform the tasks that are needed at the time.

11 Q And in that circumstance, it is the client who  
12 decides when those tasks are to be done on a day-to-day  
13 basis; correct?

14 MR. SANDERSON: Objection. Vague and  
15 ambiguous and overbroad.

16 THE WITNESS: Yes.

17 BY MR. QUALLS

18 Q When you were -- withdraw the question.

19 Have you ever worked as an hourly employee for  
20 Spherion?

21 A No.

22 Q When -- who schedules meal periods for virtual  
23 employees?

24 A I don't have that information.

25 Q To your knowledge, does Spherion schedule meal

1 Q You can answer.

2 MR. SANDERSON: It's an incomplete  
3 hypothetical.

4 THE WITNESS: The branch personnel would go  
5 back to the client to ask why. And whether or not an  
6 hour was due would be based on the legal determination.

7 BY MR. QUALLS

8 Q To your knowledge, has a Spherion employee  
9 ever been paid an extra hour of compensation for a  
10 missed meal period?

11 A I don't have that information.

12 Q You're not aware of any such payment; correct?

13 A I'm not aware of it.

14 MR. QUALLS: Off the record.

15 (A recess was taken.)

16 MR. QUALLS: Let's mark next as Exhibit 6  
17 documents bearing production numbers D0292 through  
18 D0295.

19 BY MR. QUALLS

20 Q Do you recognize this document, ma'am?

21 A I do.

22 Q What do you recognize it to be?

23 A It's a section from our employment law desk  
24 book.

25 Q What is an employment law desk book?

## **EXHIBIT C.**

**spherion**

**Weekly time record**

Account Name:  
Employee Name:

Cisco Systems
Violeta Watson-Smith

Week ending:

3/11/2007

\*Time Card will calculate from Reg hours + Other, then give a total on each line

Time Card					Total Hours Worked
Date	Start Time	End Time	Reg Hours	Overtime	Total
3/5/2007	10:00 AM	6:00PM	8.00	0.00	8.00
3/6/2007	9:30 AM	5:30PM	8.00	0.00	8.00
3/7/2007	9:30AM	5:30PM	8.00	0.00	8.00
3/8/2007	10:00AM	6:00PM	8.00	0.00	8.00
3/9/2007	9:00 AM	5:00PM	8.00	0.00	8.00
3/10/2007	n/a	n/a	0.00	0.00	0.00
3/11/2007	n/a	n/a	0.00	0.00	0.00